IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 3252 of 1990
Date of Decision: 21.3.2007

Bakshi ...Petitioner

Versus

Chinta and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: None for the parties.

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order passed by the learned Executing Court on 17.9.1990, whereby the objections to the execution of the decree, were dismissed and execution petition was also dismissed holding that the decree has become inexecutable.

The plaintiff-petitioner filed a suit for permanent injunction restraining the defendants from causing any obstruction in the irrigation by the plaintiff of his land. The said suit was decreed by the learned trial Court on 18.1.1986. The appeal against the said judgment was dismissed by the learned Additional District Judge, Hoshiarpur on 5.6.1987. The petitioner sought execution of the aforesaid decree by seeking to appoint a Local Commissioner. Shri Gurdeep Singh, was appointed as Local Commissioner to carry out the assessment in terms of the decree. A report has been submitted that common Banna and Arh `AB' cannot be constructed. It was found that mere fact that the report of the Local

Commissioner is not suitable to the decree holder will not enable the Court to draw an inference that the Local Commissioner was in league with the judgment debtor. The decree is to be executed with the aid of the site plan by the decree holder. The Court cannot go behind the decree. The suit of the plaintiff for mandatory injunction directing the defendant to construct Arh AB on the common Banna of land bearing Khasra No.989/1 to 712, 1184/1150 belonging to Chinta and Pritu and land bearing Khasra Nos. 988/1 to 712, 1182/1150, 1183/1150 and 1149/1 to 712 belonging to Punnu son of Uttam and Smt. Gurmito. Therefore, the site plan, the basis of the decree cannot be brushed aside. The common Banna and Arh AB could not be constructed in terms of the decree as the site plan is not correct according to the spot.

The reasoning given by the learned Executing Court cannot be said to be suffering from any patent illegality or irregularity, which may warrant interference by this Court in exercise of its revisional jurisdiction.

Dismissed.

21.3.2007 (HEMANT GUPTA)
ds JUDGE